

## Update: Criminal Procedure Monograph 6—Pretrial Motions (Revised Edition)

### Part 2—Individual Motions

#### 6.18 Motion to Suppress Confession Because of a *Miranda* Violation

##### 4. Interrogation After *Miranda* Rights Have Been Invoked

Insert the following case summary at the bottom of page 34:

A defendant's Fifth Amendment right to counsel is violated when a law enforcement officer interrogates the defendant after he expressed his desire to speak with an attorney and provided the officer with the attorney's name and telephone number. *Abela v Martin*, \_\_\_ F 3d \_\_\_ (CA 6, 2004). The outcome in *Abela* differed from the outcome in other cases where a defendant's request for counsel was deemed unclear or ambiguous; a defendant's use of the word "maybe" is not dispositive of the defendant's invocation of his or her Fifth Amendment right to counsel. Unlike the circumstances in *Davis v United States*, 512 US 452, 462 (1994), where the Supreme Court concluded that the defendant's statement—"Maybe I should talk to a lawyer"—was "not sufficiently clear such that a reasonable police officer in the circumstances would have understood the statement to be a request for an attorney," the defendant in *Abela* "named the specific individual with whom he wanted to speak and then showed [the police officer] the attorney's business card." *Abela, supra*, \_\_\_ F 3d at \_\_\_.

Under the circumstances in *Abela*, the Sixth Circuit found that a reasonable officer should have recognized that the defendant was making an unequivocal request for counsel. Once a defendant makes such a request, the rule of *Edwards v Arizona*, 451 US 477, 484–485 (1981), prohibited the police from further interrogation until the defendant's counsel was present or the defendant him- or herself initiated further communication with the police. *Abela, supra*, \_\_\_ F 3d at \_\_\_.